

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

Cause Number: 16106-AD17-0324-037

IN THE MATTER OF:

Brian Tyrone Clariett
6253 Shamrock Lake Ave.
Las Vegas, NV 89141

Applicant.

FILED

OCT 20 2017

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On August 14, 2017, the Administrative Law Judge, Reuben B. Hill, filed his Findings of Fact, Conclusions of Law and Recommended Order in the above-captioned matter.

1. The Department served Findings of Fact, Conclusions of law, and Recommended Order and Notice of Filing Recommended Order on Applicant by mailing the same to his address of record.

2. The Department has complied with the notice requirements of Ind. Code §4-21.5-3-17.

3. Neither party has filed an objection with the Commissioner regarding the Administrative Law Judge's Findings of Fact, Conclusions of Law and Recommended Order, and more than eighteen (18) days have elapsed.


Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The Applicant is granted a nonresident producer license on a probationary basis for a period of two (2) years.

Under Ind. Code §4-21.5-5-5, Respondent has the right to appeal this Final Order by filing a petition for Judicial review in the appropriate court within thirty (30) days.

ALL OF WHICH IS ORDERED by the Commissioner this 20th day of October, 2017.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Brian Clariett
6253 Shamrock Lake Ave
Las Vegas, NV 89141

Claire Szpara, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204

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NOTICE OF FILING OF RECOMMENDED ORDER

The parties of this action are hereby notified that the Administrative Law Judge's
Recommended Order is deemed filed as of this date.

To preserve an objection to this order for judicial review, you must object to the order in
a writing that: 1) identifies the basis for your objection with reasonable particularity; and 2) is
filed with the ultimate authority for the Final Order, the Commissioner of the Department of
Insurance within eighteen (18) days from the date of this Order.



Reuben B. Hill
Administrative Law Judge

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

FILED

AUG 14 2017

IN THE MATTER OF:)

Brian Tyrone Clariett)
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Las Vegas, Nevada 89141)

**STATE OF INDIANA
DEPT. OF INSURANCE**

CAUSE NO.: 16106-AD17-0324-037

Applicant..)
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**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER**

Administrative Law Judge Reuben B. Hill ("ALJ"), having heard, reviewed and considered all of the evidence, will now render a decision concerning the matter of Brian Tyrone Clariett ("Applicant"). This matter came on to be heard by the ALJ on July 12, 2017 at 10:00 a.m. at the Indiana Department of Insurance at 311 West Washington Street, Indianapolis, Indiana.

The Enforcement Division of the Indiana Department of Insurance ("Department") was represented by counsel, Claire Szpara. Applicant appeared by telephone and without counsel. Evidence was heard and exhibits were received into evidence.

Based upon the evidence presented at said hearing, the ALJ now makes the following Findings of Fact, Conclusions of Law, and issues the Recommended Order.

FINDINGS OF FACT

1. On February 20, 2017, Applicant applied for a Nonresident Producer License.
Applicant's home state is Nevada.
2. Applicant disclosed a Class D Felony Resisting Law Enforcement conviction from 2000.
3. Applicant stated at the hearing that he was on his motorcycle heading home, saw a police officer behind him but started speeding up. Applicant fled from the Police Officer even after he identified himself as a Police Officer and ordered Applicant to stop.
4. Applicant was sentenced to one and a half (1 ½) years' probation and additionally required to submit to a psychological evaluation.
5. Since the incident, Applicant owned two (2) clothing store businesses in Indiana. He closed the stores in 2009 and moved to Las Vegas.
6. Applicant introduced one (1) letter of recommendation from Danny Calmelat, a senior marketing director who works with Applicant.

CONCLUSIONS OF LAW

1. The Commissioner of Insurance has jurisdiction over both the subject matter and the parties to this action.

2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code.
3. Indiana Code 27-1-15.6-12(b) states that the Commissioner may refuse to issue an Insurance Producer License, due to a number of factors.
4. Specifically, Indiana Code 27-1-15.6-12(b)(6) provides the Commissioner may refuse to issue an Insurance Producer License for having been convicted of a felony.
5. Applicant's Felony Resisting Law Enforcement conviction is evidence of being convicted of a felony. Facts in mitigation include length of time since conviction and lack of subsequent criminal history.
6. Indiana Code 4-21.5-3-14(c) states that the person requesting an agency take action has the burden of persuasion and the burden of going forward. Applicant is requesting that the Department issue his Nonresident Producer License, therefore, bears the burden.
7. Pursuant to Indiana Code 27-1-15.6-12(d), the length of time since his arrest, is a factor in considering the reasonableness of the Commissioner's decision. The Applicant's lack of subsequent criminal history are mitigating factors.
8. Findings of Fact that can be adopted as a Conclusion of Law are hereby incorporated herein as such.

RECOMMENDED ORDER

In consideration of the foregoing Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the **Commissioner of Insurance** the following:

1. That Applicant be granted his Nonresident Producer License on a Probationary Basis
for a period two (2) years.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the
Commissioner of Insurance this 14th day of August, 2017.



Reuben B. Hill, Esq.
Administrative Law Judge

Distribution:

Brian Tyrone Clariett
6253 Shamrock Lake Ave.
Las Vegas, Nevada 89141

Claire Szpara, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, Indiana 46204

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BEFORE THE INDIANA
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FILED

AUG 07 2017

STATE OF INDIANA
DEPT. OF INSURANCE

**PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER**

Administrative Law Judge ("ALJ") Reuben Hill, having considered and reviewed all of the evidence, will now render a decision in the matter of Brian Clariett ("Applicant"). This matter came to be heard by the ALJ on July 12, 2017 at 10:00 a.m. at the Indiana Department of Insurance at 311 West Washington Street, Indianapolis, Indiana.

The Enforcement Division of the Indiana Department of Insurance ("Department") was represented by counsel, Claire Szpara. Applicant appeared by telephone and without counsel. Evidence was heard and exhibits were received into evidence.

Based upon the evidence presented at said hearing, the ALJ now makes the following Findings of Fact, Conclusions of Law, and issues the Recommended Order.

FINDINGS OF FACT

1. On February 20, 2017, Applicant applied for a nonresident producer license. Applicant's home state is Nevada.
2. Applicant disclosed a Class D Felony Resisting Law Enforcement conviction from 2000.

3. Applicant stated at the hearing that he was on his motorcycle heading home, saw a police officer behind him but started speeding up. Applicant fled from the police officer even after he identified himself as a police officer and ordered Applicant to stop.

4. Applicant was sentenced to one and a half (1 1/2) years' probation and required to submit to a psychological evaluation.

5. Since the incident, Applicant owned two (2) clothing store businesses in Indiana. He closed the stores in 2009 and moved to Las Vegas.

6. Applicant introduced one (1) letter of recommendation from Danny Calmelat, a senior marketing director who works with Applicant.

CONCLUSIONS OF LAW

1. The Commissioner of Insurance has jurisdiction over both the subject matter and the parties to this action.

2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code.

3. Indiana Code § 27-1-15.6-12(b) states that the Commissioner may refuse to issue an insurance producer license, due to a number of factors.

4. Specifically, Indiana Code § 27-1-15.6-12(b)(6) provides the Commissioner may refuse to issue an insurance producer license for having been convicted of a felony.

5. Applicant's felony Resisting Law Enforcement conviction is evidence of being convicted of a felony. Facts in mitigation include length of time since conviction and lack of subsequent criminal history.

6. Indiana Code § 4-21.5-3-14(c) states that the person requesting an agency take action has the burden of persuasion and the burden of going forward; here, Applicant is requesting that the Department issue his nonresident producer license and, therefore, bears the burden.

7. Pursuant to Indiana Code § 27-1-15.6-12(d), the hearing was held to determine the reasonableness of the Commissioner's decision; because of Applicant's lack of subsequent criminal history and other mitigating factors, Applicant should be issued a probationary license.

8. Findings of Fact that can be adopted as a Conclusion of Law are hereby incorporated herein as such.

RECOMMENDED ORDER

With the Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the Commissioner of Insurance the following:

1. That Applicant be granted his nonresident producer license on a probationary basis for a period of two (2) years.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this _____ day of _____, 2017.

Reuben Hill
Administrative Law Judge

Distribution:

Brian Clariett
6253 Shamrock Lake Ave
Las Vegas, NV 89141

Claire Szpara, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204

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IN THE MATTER OF:)
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Applicant.)
)
Type of Agency Action: Enforcement)
)
)
Application ID: 576234)

FILED

MAR 31 2017

STATE OF INDIANA
DEPT. OF INSURANCE

PRELIMINARY ADMINISTRATIVE ORDER
AND NOTICE OF LICENSE DENIAL

The Indiana Department of Insurance, pursuant to the Indiana Administrative Orders and Procedures Act, Indiana Code § 4-21.5-1 *et seq.* and Indiana Code § 27-1-15.6-12, hereby gives notice to Brian Tyrone Clariett ("Applicant") of the following Administrative Order:

1. Applicant filed a nonresident application for licensure with the Commissioner of the Indiana Department of Insurance ("Commissioner") on February 20, 2017.
2. Before approving an application, the Commissioner must find that the applicant has met specific requirements under Indiana Code § 27-1-15.6-8 and Indiana Code § 27-1-15.6-12.
3. Indiana Code § 27-1-15.6-12(b)(6) provides, in part, that the Commissioner may refuse to issue or renew an insurance producer license for having been convicted of a felony.
4. Following a review of materials submitted by Applicant in support of his application, the Commissioner being fully advised, now hereby notifies Applicant that he has not fully

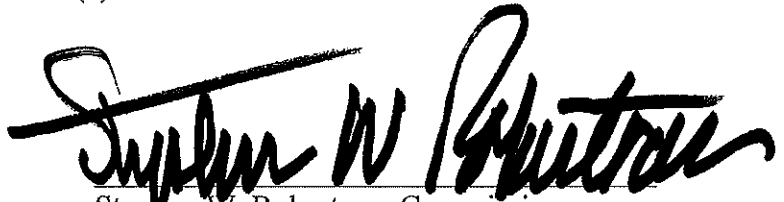
met the requirements of licensure as stated by Indiana Code § 27-1-15.6-12 based on his August 2, 2000 Indiana Class D Felony conviction of Resisting Law Enforcement.

5. Indiana Code § 27-1-15.6-12(d) provides that the Applicant may, not more than sixty-three (63) days after notice of denial of the applicant's application is mailed, make written demand to the Commissioner for a hearing before the Commissioner to determine the reasonableness of the Commissioner's action.

IT IS THEREFORE ORDERED that the Applicant's request for licensure is hereby DENIED pursuant to Indiana Code § 27-1-15.6-12(b).

3-31-17

Date Signed



Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

Brian Tyrone Clariett
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Las Vegas, NV 89141

Dennis Wood, Senior Investigator
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204
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